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ABSTRACT

This self-instructional module on protection for you and your business is the twelfth in a set of twelve modules designed for small business owner-managers. Competencies for this module (1) determine when to seek professional advice from an attorney or insurance agent and (2) identify insurance coverage essential to the operation of a small business. Provided are information sections (points to consider in developing an insurance plan and when to consult an attorney); one learning activity (a checklist to determine the types of business insurance needed); three pamphlets from the Small Business Administration ("Legal Services for Small Retail and Service Firms," "Insurance Checklist for Small Businesses," and "Business Life Insurance"); and a script from a cassette tape designed for use with this module. (The final report of this project is available as CE 017 858.) (JH)

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PURPOSE

When starting a business, entrepreneurs face many decisions which require professional advice. Frequently, decisions made without professional advice result in personal and business losses. The purpose of this module is to expose you to the kinds of risks encountered by entrepreneurs and to encourage investigation of ways to reduce these risks.

COMPETENCIES

Upon completion of this module you will be able to:

1. Determine when to seek professional advice from an attorney or insurance agent.

2. Identify insurance coverage essential to the operation of a small business.

INSTRUCTIONS

Before reading the material which begins on page 2, listen to the cassette entitled "Protection for You and Your Business."

WHEN DO I CONSULT AN ATTORNEY?

The advice and suggestions of a competent attorney can help prevent costly problems in a small business. Some small business owner-managers consider legal advice only in time of emergencies. This attitude may result in unnecessary financial losses. As a small business owner-manager, you should seek competent legal advice when you personally feel incapable of preventing or handling a business related problem. On the other hand, you should not be running to an attorney every day with routine matters. As a guideline, you should consider legal advice when:

1. Adjusting or changing your business organizational structure.
2. Acquiring property.
3. Faced with possible legal action.
4. Faced with unresolved credit problems. (You should, of course, utilize the services of local law enforcement agencies before contacting an attorney.)
5. Clarification of legislation affecting your business is needed.

DEVELOPING AN INSURANCE PROTECTION PLAN

A sound insurance protection plan is just as important to your business success as sound financing, marketing, or any other business function. To prevent business related losses, an insurance program should feature certain basic elements. To make sure that you are satisfactorily covered, consider the following advice:

1. Be able to recognize ways you can suffer losses.
2. Study insurance costs (rates do vary).
3. Seek professional advice from an experienced insurance agent.
4. Develop an insurance program that fits your type of business.

To develop a sound insurance plan review the following points:

I. Typical Business Risks

Fire	Fraud
Flood	Theft
Wind damage	Business interruption
Customer liability	Burglary
Shoplifting	Vandalism
Key-Man	Motor Vehicle

Do you have insurance to cover these common business risks?

II. Study Insurance Costs

a. Shop around. Talk to several competent insurance agents to determine the costs of insurance coverage.

b. Don't try to save money by underinsuring, but don't purchase coverage you don't need.

c. When buying coverage use as high a deductible as you can afford.

d. Try to prevent or minimize business losses yourself.

III. Seek Competent Insurance Advice

a. Select one competent agent to handle your insurance needs.

b. A competent agent will be able to provide you with many valuable services.

c. View your agent as a professional helper. Periodically review your insurance program with your agent to be sure that coverage is current and adequate.

IV. Maintain Records

a. Maintain complete records of policies, premiums paid, losses, and recoveries.

ATTENTION

It is important that you review the preferred reading entitled "Insurance Checklist for Small Business" before completing the learning activities. This booklet will provide you with many tips on how to strengthen your insurance program.

NOTE: Please turn to page 4 and complete learning activity number one.

LEARNING ACTIVITY NUMBER ONE

DIRECTIONS:

Complete this checklist by placing a ✓ in the space provided.

WHICH OF THE FOLLOWING TYPES OF INSURANCE DO YOU NEED?

	Necessary	Not needed	Don't know
Property Insurance			
Fire	_____	_____	_____
Vandalism	_____	_____	_____
Windstorm	_____	_____	_____
Flood	_____	_____	_____
Glass Breakage	_____	_____	_____
Crime Insurance			
Employee Dishonesty	_____	_____	_____
Burglary	_____	_____	_____
Robbery	_____	_____	_____
Business Interruption			
Loss of Earnings	_____	_____	_____
Credit	_____	_____	_____
Rent	_____	_____	_____
Key-Person	_____	_____	_____
Other			
Accounts Receivable	_____	_____	_____
Product Liability	_____	_____	_____
Motor Vehicle	_____	_____	_____

NOTE: Please turn to page 5 and review the preferred reading list.

PREFERRED READING LIST

This instructional module is designed to introduce key concepts regarding ways to protect you and your business. For a more in-depth examination of this topic area, study the following preferred readings.

SMALL BUSINESS ADMINISTRATION SMALL MARKETERS AIDS

#118 "Legal Services for Small Retail and Service Firms"

#148 "Insurance Checklist for Small Business"

SMALL BUSINESS ADMINISTRATION MANAGEMENT AIDS

#222 "Business Life Insurance"

NOTE: You have now completed the module requirements. You may wish to review this module or advance to another module.

SCRIPT

PROTECTION FOR YOU AND YOUR BUSINESS

INTRODUCTION:

Every small business owner manager should take time to consider potential personal and business losses. The purpose of insurance is to protect you against various forms of risk. By getting acquainted with these risks, you will be prepared to purchase adequate coverage. Let's join Sue Perez, owner of a new yarn shop, as she discusses insurance with Frank Walker, owner of the Plainfield Shoe Store.

LOCATION: SUE'S YARN SHOPPE

SOUND EFFECT: TRAFFIC NOISE--THEN THE OPENING OF THE DOOR AS FRANK ENTERS SUE'S YARN SHOPPE.

Sue: Hi Frank. Thank you for stopping. I've been wanting to show you my new business.

Frank: Say...this is really nice. You have done a wonderful job of displaying your products. How's business?

Sue: It's been kind of slow, but I am sure business will pick up. I am giving every customer lots of TLC and hoping they will come back.

Frank: What's TLC?

Sue: Tender Loving Care (BOTH LAUGH)

Frank: I remember the first few weeks that I was in business. Not only was business slow, I faced a major crisis.

Sue: What happened?

Frank: A water pipe in the office above my store broke and flooded my entire business. It was necessary to close the store for two weeks. It was a real financial blow and I almost went broke. At that time I didn't carry business interrruption insurance, so my income stopped.

Sue: Do you carry business interruption insurance today?

Frank: Yes, but I do not recommend it to everyone. In my case, the income from the business provides the only source of support for our family. A long business interruption due to fire or some other cause would be a real financial blow.

Sue: To be quite honest, I am not really sure what my policy covers. Don Simmons is handling my insurance, but we haven't had time to discuss the policy in detail. All I know is he prepared a standard comprehensive policy for me.

Frank: You should meet with him soon and find out what type of coverage you have. I have observed that some business owners have too much insurance and some have too little. If you purchase more coverage than you need, then money is wasted. If you purchase too little insurance, a certain risk must be assumed.

Sue: Do the rates for business insurance vary?

Frank: Yes, they do vary somewhat. It pays to shop around. Once you find a good, reliable insurance agent, stick with this person. Seek their advice often regarding ways to reduce business risks. My insurance agent has given me several good tips on how to minimize business losses.

Sue: Would you mind sharing that information with me?

Frank: Not at all. First, you should do everything possible to minimize business risks. Try to avoid problems which might require insurance claims. Let me give you an example. I notice you have a peg board display at the end of the isle. Those metal hooks could cause serious injury to a customer.

Sue: Thanks for the tip. I will change that display in the morning.

Frank: There are several persons in this community who will give you free advice concerning ways to minimize risks. The fire department will check your store to see if you have any unnecessary fire hazards. The police department will give you tips on how to prevent losses due to theft.

Sue: Any other advice?

Frank: Yes - do keep all of your insurance policies in a safe place. Also, keep accurate records of policies, premiums paid, losses, etc. Keep this record in a separate place.

Sue: Would you recommend that I seek advice from a lawyer regarding my insurance coverage?

Frank: No, I don't feel that is necessary. A well trained insurance agent is the best source of advice. Legal advice can be expensive. You should contact a lawyer only when faced with certain types of problems.

Sue: For example?

Frank: If you acquire property or anticipate changing your business organization structure, be sure and seek advice from a lawyer. I would also contact a lawyer if you are faced with legal problems which cannot be solved by public law enforcement officials.

Sue: Thanks for sharing this information with me.

Frank: You are welcome. I must leave now and return to my store. Best wishes for continued success with your business.

Sue: Thanks. Stop and visit again sometime soon.

SOUND EFFECT: (DOOR OPENS AND CLOSES)

CONCLUSION:

Frank Walker suggested that it is possible to carry too much or too little insurance coverage. A well trained insurance agent should be able to help you select the right type of coverage. Mr. Walker also stated that it is a good business practice to avoid business risks when possible. Advice regarding ways to avoid business risks can be obtained free of charge from the police department, fire department, and your insurance agent. Now return to page 2 where you will learn more about protection for you and your business.

SMALL BUSINESS ADMINISTRATION
U. S. Government Agency

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LEGAL SERVICES FOR SMALL RETAIL AND SERVICE FIRMS

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SUMMARY

The operation of any business large or small, cuts across legal principles applicable to the rights of buyers and sellers, landlords and tenants, creditors and debtors, employers and employees, and other groups in a competitive economy and a mobile society. The complexity and volume of these laws make it impossible for small marketers, as well as others, to know all their opportunities and rights and recognize their liabilities as well as those of others under the law. The need, therefore, is for a specialist--namely, a lawyer who is available for advice on routine as well as major decisions. Yet, many owners of small retail service firms use legal service only in emergencies. Loss to a firm may result from such an attitude.

This Aid discusses various aspects of conducting a retail or service business in which legal services are particularly desirable. Among them are: business organization, acquiring property, borrowing money, tax planning, employer-employee relations, litigation, credit problems, and disposing of the business.

Many small business owners consider legal services only when their firms are in trouble. They fail to realize that legal troubles can be reduced or avoided by a program of consultation which is carried out on a continuing basis. The advice and suggestions of a lawyer on day-to-day operations help prevent costly and time-consuming problems.

As you read this Aid, you should keep in mind that a lawyer's job, properly done, is to see that his clients adhere to the law and thus prevent inadvertent violations and near-violations which may turn out to be costly.

CHECKS, ADVISES, GUIDES, AND REPRESENTS

The legal services which a lawyer provides the owner-manager of a small retail or service firm can be summed up in four words: checking, advising, guiding, and representing.

Your lawyer can check past actions to determine if you have unintentionally violated the law. For example a retailer may have failed to get a license for a new line of merchandise because he wasn't aware that one was required.

Such a check may sometimes turn up facts that can be used to improve the firm. For example, the lawyer's examination may show that another form of business organization from the one used in the past may be much better for the owner-manager and his family.

In advising, the lawyer can explain the legal principles involved in the various courses of action which are open to the owner-manager under the law. A decision will be easy when but one action is allowed. Making a judgment may be difficult, however, when the law allows several courses of action.

At this point, a lawyer's guidance can be valuable. While the ultimate decision must rest with the owner-manager in all cases, the lawyer because of his experience, can help evaluate the courses of action and materially assist in making this decision.

In representing the owner-manager, the lawyer speaks as one specialist to other specialists. He knows and can talk the language of licensing boards, regulatory bodies, town courts, and other governmental agencies. Equally as important, is the representation which your lawyer provides in negotiating and drawing up contracts. You can be sure your interest is protected, for example, when your lawyer sits down with his counterpart to negotiate a lease. He can protect you from unknowingly placing restrictions on future expansion plans or obligating yourself to pay the

renovation costs if your rented store or shop is damaged by a fire.

ORGANIZATION

The financial future of a retail or service business will be affected by the initial decision of the owner as to the form to be used in its organization. There are certain incidents attached to any form selected which make it imperative that an attorney discuss fully the consequences with the owner.

Three forms generally are available to the owner--sole ownership, partnership, or a corporation. Each form has distinct rules applicable to it regarding taxation, management, liabilities of the owner, and division of profits. Only after being advised as to all of these may an intelligent decision be made as to which form is most suitable.

Legal services are a necessity when the choice of organization requires contracts, partnership agreements, or the filing of certificates. There are many municipal and State law requirements attached to the beginning of any new business. Full compliance can be best assured with legal advice.

Even after the business is established, periodic checks should be made as the business progresses, particularly from a tax standpoint. For example, a sole proprietorship may have been desirable in the early years when losses were incurred and could be used to offset other income of the owner.

However, when a firm grows and profits are being shown, the owner-manager may desire to incorporate in order to obtain a tax advantage and at the same time reduce personal liability for any losses of the business. As management responsibilities increase, he may wish to form a partnership to help carry the load. Or he may wish to realize on the increasing value of the business by incorporating and selling shares in the business to the public.

ACQUIRING PROPERTY

Acquiring property is another area in which legal services can be helpful and profitable. This is true whether the property is real estate or merchandise.

• Real Property

In many cases, the owner-manager's concern with real estate is through a landlord. He rents space in which to operate his retail or service business. In such cases, a lawyer always should check the provisions of the lease.

The lawyer can explain in lay language the consequences which an owner-manager may suffer because of provisions in a lease. Some of the more important considerations when signing a lease are: (1) title to and cost of any improvements to be made to the property; (2) ownership of these improvements when the lease ends; (3) renewal provisions; (4) any restriction on competitive operation by the lessee or others; (5) provisions as to compensation in case of fire or condemnation of the property; (6) provisions for assignement or subletting of the premises; and (7) the means of determining and measuring your sales--an important item when the amount of rent is to depend on a percentage of sales.

Your lawyer also will call to your attention any reciprocal restrictions as to the use of the premises, such as are commonly found in shopping center leases. Sometimes, the provisions in the leases of other stores may severely restrict your operations as well as future development of the shopping center.

If you buy a store building, the services of a lawyer are essential. In those States where title abstract companies do not operate, a lawyer will examine and certify title to the real estate to insure that you own what you are paying for. Also, he can explain the meaning and impact of any mortgage or other type of instrument necessary to finance such a purchase.

• Title to Merchandise

If you buy a stock of merchandise from another retailer, or another business, your lawyer can tell you whether you are complying with the applicable provisions of the Uniform Commercial Code or the Bulk Sales Law of the State in which you and the seller are located.

Basically, these laws require that the creditors of the seller be protected in any outright sale of a stock of merchandise to another. Your title to the goods may be jeopardized if you fail to examine and comply with these laws. Your lawyer can also check for any security interests that may be outstanding against the goods, and insure that you have proper title before you close the transaction.

INVENTORY AND OTHER FINANCING

No retail business can operate without an inventory. Rarely is this purchased for cash by the owner, and some form of financing is essential. If you borrow against inventory, for example, your lawyer should be consulted to make sure that the contracts and security documents are in order and help make clear what commitments you are making.

The basic idea behind inventory financing is that the seller does not turn the goods loose completely. Some form of security or other interest in the property is held by the seller until the merchandise is sold or paid for. Your lawyer can make sure that the security restrictions incurred by you are fully understood so that the method of financing does not unduly hamper the conduct of the business.

Aside from financing inventory, funds may be obtained by short or long-term bank loans either secured or unsecured. In any such borrowing, your lawyer's help and advice can be especially helpful because such borrowing puts limitations on your firm. For example, in the term-loan agreement, the bank or lending institution may impose certain restrictions as to the operations of your business. You may obtain funds by assigning your accounts receivable to a lending institution. Here also a lawyer should be consulted.

Legal advice is a must, if and when, you seek funds through equity financing. Here you raise funds by selling a part of your business to another person--bringing him in as a part owner. If you do this by offering stock to the general public, your lawyer will have to make sure that your firm meets the requirements set by the Securities and Exchange Commission and by any State regulatory body.

TAXES

There are innumerable instances in which the advice of an attorney with tax experience is essential in complying with tax laws. Among the factors in tax planning about which you may want to seek legal advice are: (1) the fiscal year you use; (2) the legal aspects of adopting a profit-sharing or pension plan; (3) the means and methods of capitalizing your business to minimize taxation; (4) the availability of stock-option plans to the owners, if you operate as a corporation; (5) the legal implications of insurance programs which your firm can adopt; and (6) the election as to the form of taxation available to you.

Advice and assistance on such matters can be helpful not only when the business is showing profits, but also when it has losses. For example, the effects of a loss when a newly established firm is trying to reach its break-even point sometimes may be softened measurably by using the loss in relation to other income.

Legal advice also should be sought by the owner-manager in making plans for the continuation of his business in event of his death. Such long-range plans for transferring ownership of the firm to the next generation should be made early in the firm's existence, as such planning may be difficult if not impossible at at later date.

LAWS AFFECTING EMPLOYEES

Advice and assistance on laws covering employees is another helpful legal service. For example, a lawyer can point out and help the owner-manager to observe the requirements which Federal and State laws set on wages, employees' hours, workmen's compensation, and unemployment compensation.

Legal assistance can be useful also when, and if, you employ workers represented by a labor union. It is essential in collective bargaining, and contract negotiations.

You will also want your lawyer to check to insure that your employment practices comply with any applicable fair employment legislation.

ANTITRUST PROBLEMS

Perhaps you think of big companies when you hear the word "antitrust." Most small business owners do. Nevertheless, small as well as large businesses are subject to these laws and regulations. Legal services can help you be aware of the impact of the Federal antitrust laws on your operation.

For example, you should check with your lawyer before you enter into any form of franchise or exclusive dealer arrangement with a manufacturer, wholesaler, or other supplier. In pricing your merchandise, you should have a working knowledge of the influence and impact of any fair trade law in your State. You should also be advised as to the meaning and reach of Federal laws relating to resale price-maintaining and fixing.

Many States have some form of local unfair competition law, and your lawyer can help you to understand in general the influence which this law exerts on your day-to-day operations. No retailer should enter into any agreement regarding price or the division of territories for competitive purposes without the close advice of an attorney. Any trade association to which you belong and whose meetings you attend should be adequately represented by counsel also.

LITIGATION

Of course, you'll use a lawyer to defend your firm if someone should sue it or if you should have to sue someone. The fire has to be put out.

However, it is easier when you have a regular lawyer. Because he is already familiar with your business, you will spend less time away from your work in such cases. This familiarity, which your lawyer gets from working with your firm on a regular basis, can also enable him to help you prevent situations which might lead to trouble. Such preventive law can keep your business out of the court room. Thus you avoid time-consuming and expensive attempts to rescue a situation after things have gotten out of hand.

Operating without litigation also helps your store's image. Some customers and prospective customers prefer not to deal with a business when its name is frequently in the court news.

CREDIT PROBLEMS

Sometimes a small retailer gets in trouble because he is unable to pay his debts. If things have not progressed too far, a lawyer

may be able to work out an arrangement which will allow the store to pay its debts on an installment plan, over an extended period of time and out of current income. In other cases, the lawyer may help to reorganize the store's financial structure so its creditors can receive a reasonable amount while the business continues to operate.

On the other hand, if the creditors insist on closing, the lawyer can work to prevent them from taking unfair advantage of the retailer--to prevent his sacrificing his business and insulate him from any undue personal liability for the debts of the business.

DISPOSING OF THE BUSINESS

Legal services can be helpful if for any reason you want to sell your business as a going operation. You can also use them if you want to dispose of all or substantially all of the assets of your business.

Many tax and credit implications are involved in the disposition of all or substantially all of any business or its assets. The advice and assistance of a lawyer can help you to avoid premature taxation. It can also insure that no personal liability is imposed on you in transfer of the assets.

As a rule, the sale of a business or of a substantial part of a business, requires the seller to provide certain covenants, warranties, and representations as to the title and quality of the merchandise and property he is transferring. When made properly, these representations protect both the seller and the buyer. However, if either makes them without legal advice, intentionally or unintentionally, the covenants and warranties may be oppressive. The results which evolve from this can be most unfair.

GPO 920-868

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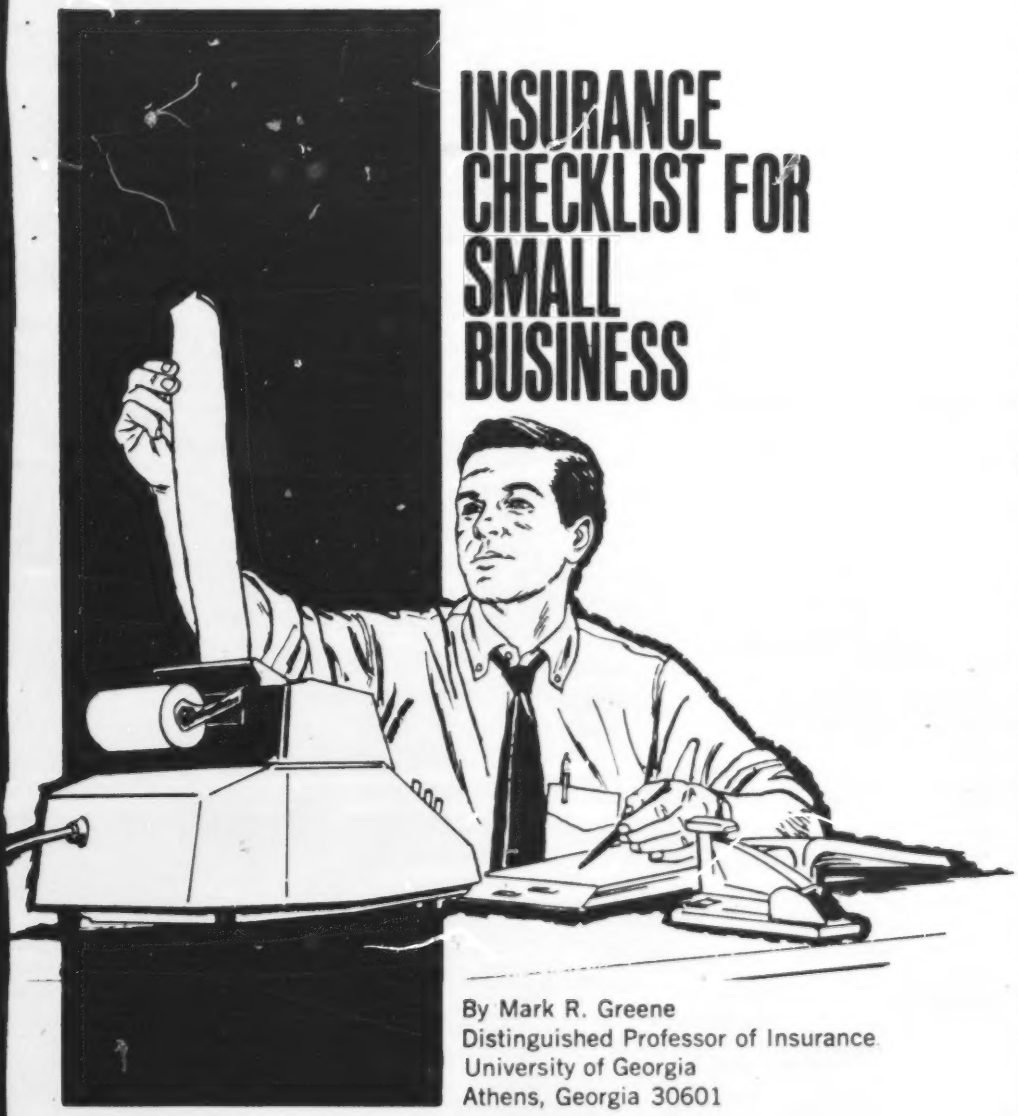

INSURANCE CHECKLIST FOR SMALL BUSINESS

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SUMMARY

There may be ways of strengthening your insurance program that have not occurred to you. The purpose of this *Aid* is to help you find out. To this end, a checklist is provided that will help you identify areas in which improvement may be possible. It will also serve as a guide for the discussions you should have with a qualified agent, broker, or other insurance counselor.

The points covered are grouped under three general heads: coverages that are essential for most businesses; coverages that are desirable for many firms but not absolutely necessary; and coverages for employee benefits.

The checklist is followed by a brief discussion of four basic steps that are necessary for good insurance management: (1) Recognize the risks to which you are exposed. (2) Follow the guides for buying insurance economically. (3) Have a plan. (4) Get professional advice.

Some small businessmen look on insurance as if it were a sort of tax. They recognize that it is necessary but consider it a burdensome expense that should be kept at a minimum. Is this view justified?

Not if you take a more constructive approach. You can use insurance to get many positive advantages as well as the negative one of avoiding losses. Used correctly, insurance can contribute a great deal to your success by reducing the uncertainties under which you operate. It can reduce employee turnover, improve your credit at the bank, make it easier to sell to customers on favorable terms, help keep your business going in case an insured peril interrupts operations. The potential benefits of good insurance management make it well worth your study and attention.

Revised
October, 1976

HOW IT WORKS

Insurance has been defined as a system in which "winners pay losers." Those who are lucky enough to avoid loss contribute through premium payments to the unlucky ones who do suffer loss. If you never collect from your insurance, consider yourself ahead, because then you are one of the winners. If you suffer a loss for which you are insured, you have the security

of knowing that the other members of the insurance system will relieve you of most of your burden.

In this sense, you come out ahead either way. Your premiums are the price you pay for freedom from worry about economic loss from conditions outside your control.

But insurance itself becomes the subject of worry for many small businessmen. This *Aid* is designed to help you lessen this worry.

A CHECKLIST

The points covered in the checklist beginning on page 4 are grouped under three general classes of insurance: (1) coverages that are essential for most businesses, (2) coverages that are desirable for many firms but not absolutely necessary, and (3) coverages for employee benefits. For each of the statements, put a check in the first answer column if you understand the statement and how it affects your insurance program. Otherwise, check the second column. Then study your policies with these points in mind and discuss any questions you still have with your agent.

ESSENTIAL COVERAGES

Four kinds of insurance are essential: *fire insurance*, *liability insurance*, *automobile insurance*, and *workers' compensation insurance*. In some areas and in some kinds of businesses, crime insurance, which is discussed under "Desirable Coverages," is also essential.

Are you certain that all the following points have been given full consideration in your insurance program?

FIRE INSURANCE

	No action needed	Look into this
1. You can add other perils—such as windstorm, hail, smoke, explosion, vandalism, and malicious mischief—to your basic fire insurance at a relatively small additional cost.	____	____

	No action needed	Look into this
2. If you need comprehensive coverage, your best buy may be one of the all-risk contracts that offer the broadest available protection for the money.	____	____
3. The insurance company may indemnify you—that is, compensate you for your losses—in any one of several ways: (1) It may pay actual cash value of the property at the time of loss. (2) It may repair or replace the property with material of like kind and quality. (3) It may take *all* the property at the agreed or appraised value and reimburse you for your loss.	____	____
4. You can insure property you don't own. You must have an insurable interest—a financial interest—in the property *when a loss occurs* but not necessarily at the time the insurance contract is made. For instance, a repair shop or drycleaning plant may carry insurance on customers' property in the shop, or a person holding a mortgage on a building may insure the building although he doesn't own it.	____	____
5. When you sell property, you cannot assign the insurance policy along with the property unless you have permission from the insurance company.	____	____
6. Even if you have several policies on your property, you can still collect only the amount of your actual cash loss. All the insurers share the payment proportionately. Suppose, for example, that you are carrying two policies—one for \$20,000 and one for \$30,000—on a \$40,000 building, and fire causes damage to the building amounting to \$12,000. The \$20,000 policy will pay \$4,800; that is, $\frac{20,000}{50,000}$, or $\frac{2}{5}$, of \$12,000. The \$30,000 policy will pay \$7,200; which is $\frac{30,000}{50,000}$, or $\frac{3}{5}$, of \$12,000.	____	____

4

	No action needed	Look into this
7. Special protection other than the standard fire policy is needed to cover the loss by fire of accounts, bills, currency, deeds, evidences of debt, and money and securities.	____	____
8. If an insured building is vacant or unoccupied for more than 60 consecutive days, coverage is suspended unless you have a special endorsement to your policy canceling this provision.	____	____
9. If, either before or after a loss, you conceal or misrepresent to the insurer any material fact or circumstance concerning your insurance or the interest of the insured, the policy may be voided.	____	____
10. If you increase the hazard of fire, the insurance company may suspend your coverage even for losses not originating from the increased hazard. (An example of such a hazard might be renting part of your building to a drycleaning plant.)	____	____
11. After a loss, you must use all reasonable means to protect the property from further loss or run the risk of having your coverage canceled.	____	____
12. To recover your loss, you must furnish within 60 days (unless an extension is granted by the insurance company) a complete inventory of the damaged, destroyed, and undamaged property showing in detail quantities, costs, actual cash value, and amount of loss claimed.	____	____
13. If you and the insurer disagree on the amount of loss, the question may be resolved through special appraisal procedures provided for in the fire-insurance policy.	____	____
14. You may cancel your policy without notice at any time and get part of the premium returned. The insurance company also may cancel at any time with a 5-day written notice to you.	____	____

	No action needed	Look into this
15. By accepting a coinsurance clause in your policy, you get a substantial reduction in premiums. A coinsurance clause states that you must carry insurance equal to 80 or 90 percent of the value of the insured property. If you carry less than this, you cannot collect the full amount of your loss, even if the loss is small. What percent of your loss you can collect will depend on what percent of the full value of the property you have insured it for.	____	____
16. If your loss is caused by someone else's negligence, the insurer has the right to sue this negligent third party for the amount it has paid you under the policy. This is known as the insurer's right of subrogation. However, the insurer will usually waive this right upon request. For example, if you have leased your insured building to someone and have waived your right to recover from the tenant for any insured damages to your property, you should have your agent request the insurer to waive the subrogation clause in the fire policy on your leased building.	____	____
17. A building under construction can be insured for fire, lightning, extended coverage, vandalism, and malicious mischief.	____	____

LIABILITY INSURANCE

1. Legal liability limits of $1 million are no longer considered high or unreasonable even for a small business.	____	____
2. Most liability policies require you to notify the insurer immediately after an incident on your property that might cause a future claim. This holds true no matter how unimportant the incident may seem at the time it happens.	____	____
3. Most liability policies, in addition to *bodily* injuries, may now cover *personal* injuries (libel, slander, and so on) *if* these are specifically insured.	____	____
4. Under certain conditions, your business may be subject to damage claims even from trespassers.	____	____
5. You may be legally liable for damages even in cases where you used "reasonable care."	____	____

	No action needed	Look into this
6. Even if the suit against you is false or fraudulent, the liability insurer pays court costs, legal fees, and interest on judgments *in addition to* the liability judgments themselves.	____	____
7. You can be liable for the acts of others under contracts you have signed with them. This liability is insurable.	____	____
8. In some cases you may be held liable for fire loss to property of others in your care. Yet, this property would normally not be covered by your fire or general liability insurance. This risk can be covered by fire legal liability insurance or through requesting subrogation waivers from insurers of owners of the property.	____	____

AUTOMOBILE INSURANCE

1. When an employee or a subcontractor uses his own car on your behalf, you can be legally liable even if you don't own a car or truck yourself.	____	____
2. Five or more automobiles or motorcycles under one ownership and operated as a fleet for business purposes can generally be insured under a low-cost fleet policy against both material damage to your vehicle and liability to others for property damage or personal injury.	____	____
3. You can often get deductibles of almost any amount—say $250 or $500—and thereby reduce your premiums.	____	____
4. Automobile medical-payments insurance pays for medical claims, including your own, arising from automobile accidents regardless of the question of negligence.	____	____
5. In most States, you must carry liability insurance or be prepared to provide other proof (surety bond) of financial responsibility when you are involved in an accident.	____	____
6. You can purchase uninsured-motorist protection to cover your own bodily-injury claims from someone who has no insurance.	____	____

	No action needed	Look into this
7. Personal property stored in an automobile and not attached to it (for example, merchandise being delivered) is not covered under an automobile policy.	____	____

WORKER'S COMPENSATION

1. Common law requires that an employer (1) provide his employees a safe place to work, (2) hire competent fellow employees, (3) provide safe tools, and (4) warn his employees of an existing danger.	____	____
2. If an employer fails to provide the above, under both common law and workers' compensation laws he is liable for damage suits brought by an employee.	____	____
3. State law determines the level or type of benefits payable under workers' compensation policies.	____	____
4. Not all employees are covered by workers' compensation laws. The exceptions are determined by State law and therefore vary from State to State.	____	____
5. In nearly all States, you are now legally *required* to cover your workers under workers' compensation.	____	____
6. You can save money on workers' compensation insurance by seeing that your employees are properly classified.	____	____
7. Rates for workers' compensation insurance vary from 0.1 percent of the payroll for "safe" occupations to about 25 percent or more of the payroll for very hazardous occupations.	____	____

8

	No action needed	Look into this
8. Most employers in most States can reduce their workers' compensation premium cost by reducing their accident rates below the average. They do this by using safety and loss-prevention measures.	____	____

DESIRABLE COVERAGES

Some types of insurance coverage, while not absolutely essential, will add greatly to the security of your business. These coverages include business-interruption insurance, crime insurance, glass insurance, and rent insurance.

BUSINESS INTERRUPTION INSURANCE

1. You can purchase insurance to cover fixed expenses that would continue if a fire shut down your business—such as salaries to key employees, taxes, interest, depreciation, and utilities—as well as the profits you would lose.	____	____
2. Under properly written contingent business-interruption insurance, you can also collect if fire or other peril closes down the business of a supplier or customer and this interrupts your business.	____	____
3. The business-interruption policy provides payments for amounts you spend to hasten the reopening of your business after a fire or other insured peril.	____	____
4. You can get coverage for the extra expenses you suffer if an insured peril, while not actually closing your business down, seriously disrupts it.	____	____
5. When the policy is properly endorsed, you can get business-interruption insurance to indemnify you if your operations are suspended because of failure or interruption of the supply of power, light, heat, gas, or water furnished by a public utility company.	____	____

	No action needed	Look into this

CRIME INSURANCE

1. Burglary insurance excludes such property as accounts, fur articles in a showcase window, and manuscripts. ____ ____

2. Coverage is granted under burglary insurance only if there are visible marks of the burglar's forced entry. ____ ____

3. Burglary insurance can be written to cover, in addition to money in a safe, inventoried merchandise and damage incurred in the course of a burglary. ____ ____

4. Robbery insurance protects you from loss of property, money, and securities by force, trickery, or threat of violence on *or off* your premises. ____ ____

5. A comprehensive crime policy written just for small businessmen is available. In addition to burglary and robbery, it covers other types of loss by theft, destruction, and disappearance of money and securities. It also covers thefts by your employees. ____ ____

6. If you are in high-risk area and cannot get insurance through normal channels without paying excessive rates, you may be able to get help through the federal crime insurance plan. Your agent or State Insurance Commissioner can tell you where to get information about these plans. ____ ____

GLASS INSURANCE

1. You can purchase a special glass-insurance policy that covers all risk to plate-glass windows, glass signs, motion-picture screens, glass brick, glass doors, showcases, countertops, and insulated glass panels. ____ ____

	No action needed	Look into this
2. The glass-insurance policy covers not only the glass itself, but also its lettering and ornamentation, if these are specifically insured, and the costs of temporary plates or boarding up when necessary.	____	____
3. After the glass has been replaced, full coverage is continued without any additional premium for the period covered.	____	____

RENT INSURANCE

1. You can buy rent insurance that will pay your rent if the property you lease becomes unusable because of fire or other insured perils and your lease calls for continued payments in such a situation.	____	____
2. If you own property and lease it to others, you can insure against loss if the lease is canceled because of fire and you have to rent the property again at a reduced rental.	____	____

EMPLOYEE BENEFIT COVERAGES

Insurance coverages that can be used to provide employee benefits include group life insurance, group health insurance, disability insurance, and retirement income. Key-man insurance protects the company against financial loss caused by the death of a valuable employee or partner.

GROUP LIFE INSURANCE

1. If you pay group-insurance premiums and cover all employees up to $50,000, the cost to you is deductible for Federal income-tax purposes, and yet the value of the benefit is not taxable income to your employees.	____	____
2. Most insurers will provide group coverages at low rates even if there are 10 or fewer employees in your group.	____	____

	No action needed	Look into this
3. If the employees pay part of the cost of the group insurance, State laws require that 75 percent of them must elect coverage for the plan to qualify as group insurance.	____	____
4. Group plans permit an employee leaving the company to convert his group-insurance coverage to a private plan, at the rate for his age, without a medical exam if he does so within 30 days after leaving his job.	____	____

GROUP HEALTH INSURANCE

1. Group health insurance costs much less and provides more generous benefits for the worker than individual contracts would.	____	____
2. If you pay the entire cost, individual employees cannot be dropped from a group plan unless the entire group policy is canceled.	____	____
3. Generous programs of employee benefits, such as group health insurance, tend to reduce labor turnover.	____	____

DISABILITY INSURANCE

1. Workers' compensation insurance pays an employee only for time lost because of work injuries and work-related sickness—not for time lost because of disabilities incurred off the job. But you can purchase, at a low premium, insurance to replace the lost income of workers who suffer short-term or long-term disability not related to their work.	____	____
2. You can get coverage that provides employees with an income for life in case of permanent disability resulting from work-related sickness or accident.	____	____

RETIREMENT INCOME

1. If you are self-employed, you can get an income tax deduction for funds used for retirement for you and your employees through plans of insurance or annuities approved for use under the Employees Retirement Income Security Act of 1974 (ERISA).	____	____

	No action needed	Look into this
2. Annuity contracts may provide for variable payments in the hope of giving the annuitants some protection against the effects of inflation. Whether fixed or variable, an annuity can provide retirement income that is guaranteed for life.	____	____

KEY-MAN INSURANCE

1. One of the most serious setbacks that can come to a small company is the loss of a key man. But your key man can be insured with life insurance and disability insurance owned by and payable to your company.	____	____
2. Proceeds of a key-man policy are not subject to income tax, but premiums are not a deductible business expense.	____	____
3. The cash value of key-man insurance, which accumulates as an asset of the business, can be borrowed against and the interest and dividends are not subject to income tax as long as the policy remains in force.	____	____

ORGANIZING YOUR INSURANCE PROGRAM

A sound insurance protection plan is just as important to the success of your business as good financing, marketing, personnel management, or any other business function. And like the other functions, good risk and insurance management is not achieved by accident, but by organization and planning. A lifetime of work and dreams can be lost in a few minutes if your insurance program does not include certain elements. To make sure that you are covered, you should take action in four distinct ways:

1. Recognize the various ways you can suffer loss.
2. Follow the guides for buying insurance economically.
3. Organize your insurance-management program.
4. Get professional advice.

Recognize the risks. The first step toward good protection is to recognize the risks you face and make up your mind to do something about them. Wishful thinking or an it-can't-happen-to-me attitude won't lessen or remove the possibility that a ruinous misfortune may strike your business.

Some businesses will need coverages not mentioned in the checklist. For example, if you use costly professional tools or equipment in your business, you may need special insurance covering loss or damage to the equipment and/or business interruption resulting from not being able to use the equipment.

Study insurance costs. Before you purchase insurance, investigate the methods by which you can reduce the costs of your coverage. Be sure to cover the following points:

1. Decide what perils to insure against and how much loss you might suffer from each.
2. Cover your largest loss exposure first.
3. Use as high a deductible as you can afford.
4. Avoid duplication in insurance.
5. Buy in as large a unit as possible. Many of the "package policies" are very suitable for the types of small businesses they are designed to serve, and often they are the only way a small business can get really adequate protection.
6. Review your insurance program periodically to make sure that your coverage is adequate and your premiums as low as possible consistent with sound protection.

Have a plan. To manage your insurance program for good coverage at the lowest possible cost, you will need a definite plan that undergirds the objectives of your business. Here are some suggestions for good risk and insurance management:

1. Write down a clear statement of what you expect insurance to do for your firm.
2. Select only one agent to handle your insurance. Having more than one may spread and weaken responsibility.
3. If an employee or partner is going to be responsible for your insurance program, be sure he understands his responsibility.
4. Do everything possible to prevent losses and to keep those that do occur as low as possible.

5. Don't withhold from your insurance agent important information about your business and its exposure to loss. Treat your agent as a professional helper.
6. Don't try to save money by underinsuring or by not covering some perils that could cause loss, even though you think the probability of their occurring is very small. If the probability of loss is really small, the premium will also be small.
7. Keep complete records of your insurance policies, premiums paid, losses, and loss recoveries. This information will help you get better coverage at lower costs in the future.
8. Have your property appraised periodically by independent appraisers. This will keep you informed as to just what your exposures are, and you will be better able to prove what your actual losses are if any occur.

Get professional advice about your insurance. Insurance is a complex and detailed subject. A professionally qualified agent, broker, or consultant can earn his fees many times over .

FOR FURTHER INFORMATION

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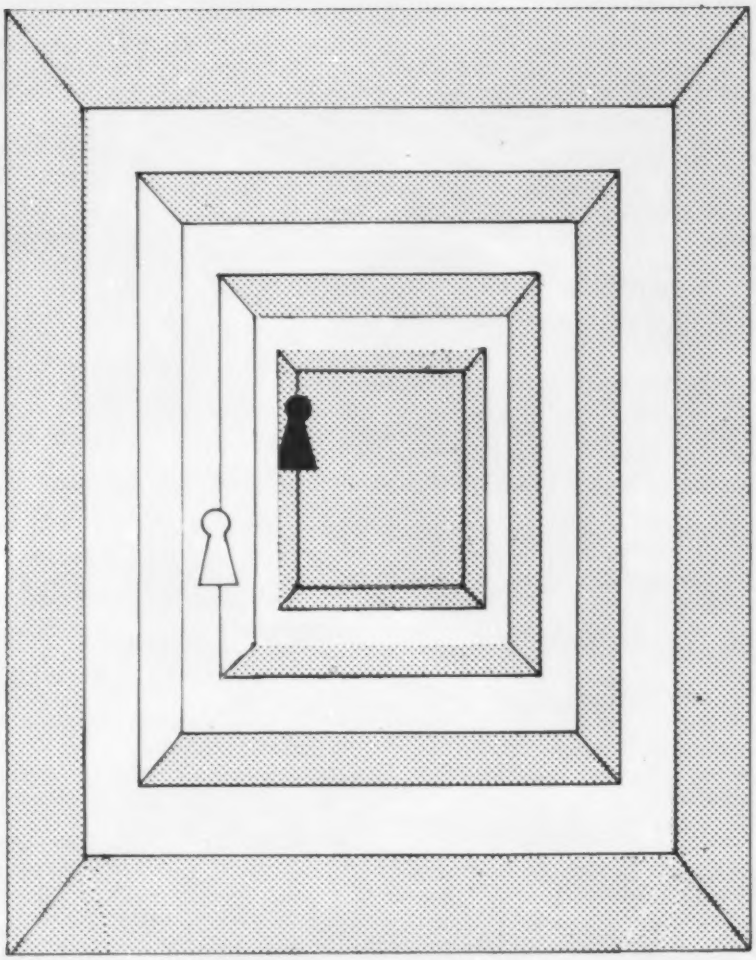
BUSINESS LIFE INSURANCE



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SUMMARY

Business life insurance provides protection for the owner-manager of a small business. When an owner-manager dies, this type of insurance can provide a financial cushion for his family and his employees.

This **Aid** discusses the "what's" and "why's" of business life insurance as they apply to small businessmen who are involved in sole proprietorships, partnerships, or small corporations.

Prepared by the

INSTITUTE OF LIFE INSURANCE

New York, N. Y.

When the life savings of an owner-manager are invested in his small business, what happens when he dies? Does the business close up? Does his family have to stand by and watch those savings go down the drain?

To a great extent, what happens at the owner-manager's death depends on what he does before that event. He can protect his business and his family with business life insurance. However, if you are owner-manager of a small business, the insurance should be custom-tailored to your particular business and the needs of your family.

You will want to be certain that business life insurance covers every angle of your business. To do this, check with people who know about life insurance and your business. Among those who can help are your attorney, your accountant, your banker, and your life insurance agent or broker.

Your agent or broker can provide technical advice about the arrangement of policies. The others will give you the essential information upon which your plan is based. They can also help you to see that the legal aspects are taken care of.

PURPOSES OF INSURANCE

Business life insurance can be written for numerous specific purposes. Chief among these are:

- A sole-proprietorship insurance plan to provide for maintenance of a business upon the death of the sole-proprietor.
- A partnership insurance plan to retire your partner's interest at death and vice versa.
- A corporation insurance plan to retire your shareholder's interest at death and vice versa.
- Key-man protection to reimburse for loss and to provide a replacement in the event of your key employee's death. Such insurance helps to prevent a setback that develops because of losing a vital employee.
- Group plan for employees. A group annuity or pension plan may be desirable where the number of employees is sufficiently large. Where only a few are involved, some form of individual retirement policy could be used, with the cost shared by employer and employees in any proportion desired
- Reserve for emergencies. Most business life insurance plans utilize life insurance which has cash value. This cash value, growing over the years, provides the firm with a valuable reserve for emergencies in the event of any sharp dislocation in business conditions. When necessary, the policy cash value can be used as the basis for loans.
- Where your estate consists entirely of your interest in the business, insurance on our life, payable to your family on your death, provides them with ready cash and aids in liquidating your interest in the business.

Keep in mind in preparing a life insurance plan that too much weight should not be given to the tax angles because they are constantly changing, and a plan set up today on the basis of a certain tax advantage may prove to be disadvantageous next year. The tax factors should be left to the interpretation of the experts.

BUSINESS LIFE INSURANCE FOR THE SOLE-PROPRIETOR

As was mentioned earlier in this *Aid*, life insurance protection provides an owner-manager's dependents or heirs with cash representing the sound valuation of the business at his death. Such insurance can also assure business continuity.

Arranging Your Business Policy. There are several considerations that you should recognize, such as:

—making sure that your policy adequately meets the conditions of a will or trust agreement if selling or liquidating your business is desired,
—being aware of the need to select an appropriate beneficiary, and
—determining who is to pay the insurance premiums.

A most important consideration is who takes "custody" of your business in case of your death. The owner-manager who does not prepare for the future leaves his family open for confusion and loss.

Look for problems and provide for them. For example, suppose your business is left to your son or other heir. Suppose further that the designated heir may not be capable of running the business. With your knowledge and experience you can see friction developing among the other heirs or employees. The heir designate may be a minor.

To solve this problem you could consider the possibility of an executor taking over. He might hire a manager who may not do the best job possible because he realizes that the job is temporary.

If your business is transferred by sale to employees, or outsiders, there might be controversy over valuation. There might even be trouble over availability of funds to carry out the transfer.

Funds Will Be Needed. Whichever way you choose to dispose of your business, funds will be needed—and quickly. Debts, taxes, and administrative costs have to be met. Income for your family must be provided.

Also, if your family is continuing the business and if nobody in the family has the necessary experience, someone will probably have to be hired to manage the firm. The business will need working capital at least for a period of readjustment.

Possibly your employees will take over the business. They will need funds for the purchase of the business, at least in part.

If your business is sold outright, working capital will be needed for the transition period. Perhaps some funds may be needed to meet the probable discounting of assets which may accompany such a sale.

Keep in mind that the important thing is to tailor business life insurance to fit your needs. Decide what you want to happen to your firm and your family, and then plan accordingly.

BUSINESS LIFE INSURANCE FOR THE PARTNERSHIP

Unless the partners have provided otherwise, a partnership dissolves when one of them dies.

In the absence of legal safeguards to avoid dissolution, a partnership automatically dissolves at the death or shortly after the death of a partner. For practical purposes, the business is finished. The surviving partners become "liquidating trustees."

The only business allowed is that of winding up affairs of the partnership. If the business is continued, the surviving partners become personally liable for any losses incurred should assets not cover losses.

One way to avoid these difficulties is an adequately financed buy-and-sell agreement. Such an agreement provides for the purchase at a prearranged valuation of your deceased partner's interest. Your attorney can draw up the necessary papers carrying out the wishes of your partners and you.

If a buy-and-sell agreement is decided upon, the next step is to fund the arrangement. It can be done through life insurance.

A life insurance policy enables surviving partners to reorganize at once and continue in business. Such insurance liquidates the interest of a deceased partner without loss. It also enables the beneficiaries (spouse and family) of a deceased partner to secure full, fair value for the interest in the firm, at once and with a minimum of trouble.

Ways To Set Up Plan. There are various ways of establishing your partnership insurance plan, each with advantages for particular requirements.

One plan involves the purchase by each partner of a policy on the life of the other partners. Each partner pays the premiums himself. Another plan where there are three or more partners is to have the firm buy a policy on the life of each partner.

The question of how much premiums each should pay, the amount of insurance needed, the beneficiary arrangements, tax effects, policy assignments necessary, comprise a few of the loads of questions involved.

Valuation. The valuation of your partnership is one of the most vital of all problems to be met in setting up a partnership insurance. Here you are trying to set up a formula under which full value is to be paid the deceased partner's heirs at some future time. The formula must be equitable and must satisfy all partners or it could become the basis of long-running controversy.

There are many bases of valuation. Simplest is the plan which sets an arbitrary value on each partner's interest in advance. Such a plan avoids later arguments. However, it does not provide for the possibly rapid shift in value through growth of the business.

If this type of plan is used, the formula for settlement could simply be a fixed valuation for goodwill, plus the net book value (current value of assets, minus liabilities).

CORPORATION BUSINESS LIFE INSURANCE

Because the success of a corporation depends largely on the abilities of the men who run it, the death of any one of them holds the possibility of financial loss to the corporation. Life insurance is useful to protect the corporation against the loss of the services of its executives. It can also provide funds for their replacement.

In dealing with corporation life insurance as it applies to small business, the word "corporation" applies primarily to the close corporation—one with a few stockholders, all of whom usually are actively engaged in the management of the business.

Death of the principal stockholder in a close corporation may lead to management or personnel clashes which might seriously affect the business. It can cost you in the form of credit impairment, or direct loss of business, or damage to your employee morale.

Unless otherwise provided, the deceased stockholder's stock becomes a part of the estate and passes into the hands of the administrator of the estate during the period of settlement. The administrator can vote the stock. If it is a controlling interest, he could even name a new board of directors and take over full control.

Should a principal stockholder die, therefore, many questions are raised automatically.

Will management deteriorate if the heirs stay in?
Will the heirs have the ready cash needed to meet death costs?
Can money be found by the surviving stockholders to buy out the heirs?
Will adequate income be provided the heirs if they retain the stock?
Can a buyer be found for the stock?
Will the firm's credit stand up under such a strain?
How long will the whole matter be held in controversy?
Will the firm's sales hold up?
Will the employees become restive?

These are just a few of the questions that may arise. Failure to take proper steps to meet them might readily cause serious financial loss and possibly bring the business to an end.

All these questions can be met and the hazard eliminated through a stock purchase and sale agreement with life insurance written into it to guarantee the funds for carrying it out. Such an agreement determines in advance just what will be done upon the death of a stockholder. It also makes funds immediately available, at that time, for accomplishing the objectives of the plan.

Benefits. The benefits of having such a plan are many. Continuity of management without interruption is guaranteed. No outsiders can come into the business unless agreed upon in advance.

The cash needed to carry out the purchase of the stock is automatically provided on a basis previously agreed to as fair. The common causes of friction between heirs and surviving stockholders are removed.

Finally, widows or heirs are not burdened by business responsibilities or worries. Having a guaranteed price, they are protected against shrinkage of stock values.

PERIODIC CHECKUP

Once an owner-manager has set up an insurance program for his business, he should check it periodicallly.

Financial conditions change, tax laws vary in effect, valuations of the interest of the owners are never constant—to mention but a few of the changing conditions that can affect the plan.

Revaluations should be made whenever necessary in connection with buy-and-sell agreements and partnership and corporation policies.

Changes in tax laws suggest a need for a special checkup to make certain that your tax angles are adequately covered. At least once each year, the plan should go through this careful screening by your life insurance agent or broker.

RESULTS

A suitable business insurance program can be of value to you in many ways. It can, for instance,

- –assure immediate funds to meet taxes, debts, and administrative expenses,
- –provide income for your heirs,
- –equitably distribute the property value to your heirs,
- –enable your executor, administrator, or trustee to dispose of the business to the best advantage if the family is not taking over,
- –put your family on sound financial footing if it is assuming direction of your business,
- –stabilize the credit of your business, and
- –help to maintain good employee relations by eliminating uncertainties and hazards.

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